

**REMARKS**

Favorable reconsideration of this application is respectfully requested in view of the previous amendments and the following remarks.

As set forth in the Official Action mailed July 10, 2009, the Examiner objected to claim 13, claims 2-5, 7, 8 and 17-19 were rejected under Section 112, second paragraph, and claim 8 was rejected under 35 U.S.C. 101. In addition, claims 1, 3, 4, and 9-12 were rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 3,734,095 to Santomieri, claims 1, 9, 13-15, 17 and 18 were rejected under 35 U.S.C. 102(b) as being anticipated by Morikawa et al., claims 5 and 6 were rejected under 35 U.S.C. 103 as being unpatentable over Santomieri and claims 6, 16 and 19 were rejected under 35 U.S.C. 103 as being unpatentable over Morikawa et al.

As set forth above, independent claim 1 has been amended to include claims 3 and 4, independent claim 9 has been amended to include claim 12, and independent claim 14 has been amended to include claims 15, 17 and 18. Claims 3, 4, 8, 12, 15, 17 and 18 have been canceled and new claims 20-24 have been added. Thus, claims 1, 2, 5-7, 9-11, 13, 14, 16, 19 and 20-24 are presented for consideration.

As amended above, independent claim 1 is directed to a humor sampling implement comprising, *inter alia*, a main frame part having a humor transfer channel provided to collect humor through a humor inflow port and transfer said humor to a humor outflow port, said main frame part being provided with a convex part. The humor transfer channel comprises a first humor transfer channel that opens to a humor inflow port, and a second humor transfer channel connected to said first

humor transfer channel, said second humor transfer channel being different from said first humor transfer channel in a direction of humor transfer in which said humor is transferred along the humor transfer channel. The convex part of the main frame part is provided at an end portion on a humor outflow port side of said first humor transfer channel of the main frame part so as to protrude in said second humor transfer channel. Further, the direction of humor transfer in said first humor transfer channel and the direction of the humor transfer in said second humor transfer channel are substantially orthogonal to each other.

One of the primary references relied upon by the Examiner, Santomieri, is directed to an infusion assembly including a stylet needle 86. The proximal end 91 of the needle 86 is curved through essentially 90 degrees and terminates in a looped end or tail. Col. 4, lines 49-52. The needle may be modified as shown in FIG. 7 to provide a peripheral aperture 120 adjacent the curved proximal end. The aperture 120 is disposed in the surface of the needle essentially parallel to the bore 78. The guide core 60 is provided with an internal seal 122 which in the assembled position substantially occludes the aperture 120 in the needle 86.

Applicants respectfully submit that the transfer channel of Santomieri for humor sampling is the stylet needle 86 with a catheter. As interpreted by the Examiner, the distal end of needle 86 defines a first humor transfer channel and a second humor transfer channel is defined by the portion of needle 86 above nub 122 in FIG. 7. The curved proximal end 91 of needle 86 does not however define a humor transfer channel oriented orthogonally to the distal end of needle 86. Rather, as the name implies, it is a curved transfer channel disposed intermediate and connecting the distal end of needle 86 and a further portion of the proximal end of

needle 86. Therefore, Santomieri does not disclose two humor transfer channels that are oriented orthogonally to each other, as recited in claim 1.

In addition, the nub 122 is merely a seal for bore 78. As recited in claim 1, the convex part is provided at an end portion on a humor outflow port side of said first humor transfer channel so as to protrude in said second humor transfer channel. As described more fully in Paragraph [0167] of the published application, convex part 743 serves a function such that the blood transferred in the first blood transfer channel 744 fills sufficiently the space at the boundary part between the first blood transfer channel 744 and the second blood transfer channel 745, and is thereafter drawn up toward the blood outflow port 742 due to the capillarity in the second blood transfer channel 745. The nub 122 of Santomieri does not serve any such function.

Moreover, as recited in newly added claim 20, the nub 122 does not protrude "along an axial direction of said second humor transfer channel" nor is the position of the nub 122 "fixed relative to said first humor transfer channel" when in use (see Col. 5, lines 30-35, of Santomieri describing the retraction of needle 86 relative to nub 122).

Accordingly, Applicants submit that independent claim 1 and the claims depending therefrom are patentable over Santomieri.

Independent method claim 9 has been amended as set forth above to recite a method of humor sampling, comprising, *inter alia*, collecting humor through a humor inflow port of a main frame part of a humor sampling implement, and introducing the humor collected at the humor inflow port to a humor transfer channel and transferring the humor along the humor transfer channel to a humor outflow port; the main frame part comprising a projection protruding in said humor transfer channel toward said

humor outflow port. Still further, the transfer of the humor along the humor transfer channel comprises transferring the humor collected at the humor inflow port along a first humor transfer channel which opens to said humor inflow port and transferring the humor along a second humor transfer channel which is connected to said first humor transfer channel and which is orthogonally oriented relative to the first humor transfer channel.

As discussed above relative to claim 1, the curved proximal end 91 of needle 86 does not define a humor transfer channel oriented orthogonally to the distal end of needle 86. Rather, as the name implies, it is a curved transfer channel disposed intermediate and connecting the distal end of needle 86 and a further portion of the proximal end of needle 86. Therefore, Santomieri does not disclose the transfer of humor along two humor transfer channels that are orthogonally oriented to each other, as recited in claim 9.

Moreover, as recited in newly added claim 22, Santomieri does not disclose a second humor transfer channel which is "immediately adjacent to said first humor transfer channel and orthogonally oriented relative to the first humor transfer channel."

Accordingly, Applicants submit that independent claim 9 and the claims depending therefrom are patentable over Santomieri.

Independent claim 14 as amended above is directed to a humor sampling implement comprising a main frame part provided with a humor inflow port, a humor outflow port and a humor transfer channel extending between the humor inflow port and the humor outflow port, the main frame comprising a projection provided along said humor transfer channel to at least prevent an increase in a cross-sectional area

of a portion of the humor transfer channel between the projection and the humor outflow port; wherein the projection possesses a configuration such that a cross-sectional area of the projection decreases toward the humor outlet port; and wherein the humor transfer channel comprises a first humor transfer channel opening to the humor inflow port and a second humor transfer channel connected to the first humor transfer channel, the second humor transfer channel being orthogonally oriented relative to the first humor transfer channel.

The primary reference relied upon by the Examiner in rejecting original claims 15, 17 and 18, which have now been incorporated into claim 14, Morikawa, is directed to collection device having a body member 51 with a tip end 52. The alleged projection relied upon by the Examiner is defined by the curve of tip end 52 between 54 and 55 and pointing towards 532. This alleged projection is highlighted herein for clarity and to ensure a correct understanding of what the Examiner is relying upon.

As evident from the above illustration, the projection does not have "a configuration such that a cross-sectional area of the projection decreases toward the humor outlet port." Accordingly, Applicants respectfully submit that independent claim 14 is anticipated or rendered obvious by Morikawa.

Still further, as recited in newly added claim 23, it is clear that the projection provided along said humor transfer channel does not "project along an axial direction of said second humor transfer channel."

Early and favorable action with respect to this application is respectfully requested.

Should any questions arise in connection with this application or should the Examiner believe that a telephone conference with the undersigned would be helpful in resolving any remaining issues pertaining to this application the undersigned respectfully requests that he be contacted at the number indicated below.

Respectfully submitted,

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